

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LYNNETTE FRARY, et al.,
Plaintiffs,
v.
COUNTY OF MARIN, et al.,
Defendants.

Case No. [12-cv-03928-MEJ](#)

**ORDER DENYING WITHOUT PREJUDICE
PETITION TO WITHDRAW FUNDS FROM
BLOCKED ACCOUNT; ORDER TO FILE
DOCUMENTS UNDER SEAL**

Re: Dkt. Nos. 235, 236

BACKGROUND

The Court previously approved two minor's compromises in the above-captioned case on behalf of the minor Plaintiff, A.C. Dkt. Nos. 189 (Order Approving Minor's Compromise Against City Defendants); 230 (Order Approving Minor's Compromise Against County Defendants). Among other things, the minor's compromises established a federally insured, blocked account in the total amount of \$76,205.08 (\$66,975.97 from the County Settlement and \$9,229.11 from the City Settlement). *Id.* The Orders approving the minor's compromises state: "No withdrawals of principal or interest shall be made from the blocked account without a written order under this case name and number, signed by a judge, and bearing the seal of this Court, until the minor attains the age of 18 years on April 3, 2024." Dkt. No. 189 at 6; Dkt. No. 230 at 4.

On July 22, 2015, Plaintiffs' attorney, David L. Fiol, submitted an affidavit attesting to his and Plaintiffs' compliance with the Court's Orders on the minor's compromises. Dkt. No. 235. He attached copies of redacted exhibits showing how he and Plaintiffs had directed the settlement funds. *Id.*, Exs. 1-2.

Days later, on July 27, 2015, the minor's mother and guardian ad litem, Jamie Ball ("Petitioner"), proceeding without a lawyer, filed a Petition for Withdrawal of Funds from

Blocked Account. Dkt. No. 236. Petitioner seeks to withdraw \$3,665.00 to take the minor Plaintiff on a seven day package vacation to Hawaii. Pet. at 2. She states “[t]he two of us will go there alone and I will describe the trip to [the minor] as something that is being paid for by the defendants as very partial compensation for [the minor’s] loss of her father.” *Id.* Petitioner attached a copy of the trip itinerary made through the travel agency California State Automobile Association and seeks that the funds be paid directly to that agency. *Id.*, Ex. A. Petitioner also seeks to withdraw \$1,000.00 to be paid directly to her and “to be devoted to purchasing clothing and school supplies for [the minor]’s return to school in the fall.” *Id.* at 2.

DISCUSSION

The Court has carefully considered the Petition before it. The Court respects and recognizes a mother’s important role in her child’s life, and a parent’s prerogative in making decisions on behalf of her child. At the same time, the Court’s ultimate responsibility is to safeguard the funds on behalf of the minor Plaintiff. With that balance in mind, for the reasons discussed below, the Court has determined it must deny the Petitioner’s present request, although she may file future petitions in compliance with the Court’s orders below.

First, in situations involving a blocked account reserved for the benefit of a minor plaintiff, courts have limited withdrawal of those funds needed to pay for academic and counseling needs. *See, e.g., J. et al v. County of Alameda et al.*, Case. No. 11-4123, Dkt. No. 56 (N.D. Cal. filed Nov. 1, 2013). Given that the minor Plaintiff in this case is of such a young age, the Court finds such limitations are in her best interests here. Accordingly, the Court advises Petitioner that the Court will only consider the withdrawal of funds for the minor Plaintiff’s academic, health, and counseling needs, or for some other purpose if Petitioner demonstrates a compelling need for the benefit of the minor. *See also* 2015 CALIFORNIA COURT ORDER 0213, CA R MERCED SUPER CT Rule 300 (C.O. 0213) (“Parents are advised that monies in blocked accounts are not available for payment of services ordinarily provided by parents.”). In light of this decision, the Court finds that the pending Petition should be denied as it does not obviously relate to an academic, health, or counseling need, and Petitioner has not otherwise shown a compelling reason to withdraw those funds. While school supplies may fall under the category of an academic need, there is no

itemization of these expenses or other specific indication as to how the \$1,000 will be spent.

Second, to aid the orderly administration of the minor Plaintiff's funds, the Court **DIRECTS** Petitioner to use the form attached to this Order as Attachment 1 when and if she makes any future requests to withdraw funds. This form is intended to be equivalent to California Judicial Council Form MC-357 (Petition for Withdrawal of Funds from Blocked Account) and to comply with the substantive requirements of California Rules of Court 3.1384 and 7.954. The Petition should preserve the confidentiality of the minor's identity, by among other things, not using the child's surname (last name) or mailing/home addresses in any document sent to the Court.

Finally, Plaintiffs' counsel's recently-filed affidavit of compliance with the Court's Orders only attaches redacted copies of the documents indicating that the proper accounts have been established on the minor's behalf. The Court **ORDERS** Plaintiffs' counsel to file unredacted copies of those documents under seal.

CONCLUSION

For the foregoing reasons, it is hereby **ORDERED** that:

(1) The Petition to Withdraw Funds (Dkt. No. 236) is **DENIED WITHOUT**

PREJUDICE; the Court will consider future petitions that comply with the requirements set forth in this Order.

(2) Petitioner is **DIRECTED** to use the form attached hereto as Attachment 1 to make any future requests to withdraw funds from the minor Plaintiff's blocked account.

(3) Plaintiffs' counsel is **ORDERED** to file under seal unredacted copies of the documents attached as exhibits to his Affidavit at Dkt. No. 235 **by August 10, 2015**.

IT IS SO ORDERED.

Dated: July 31, 2015



MARIA-ELENA JAMES
United States Magistrate Judge

Attachment A

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Name: _____

Street Address: _____

City/State/ZIP: _____

Guardian(s) ad Litem

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LYNNETTE FRARY, et al.,

Plaintiffs,

v.

COUNTY OF MARIN, et al.,

Defendants.

Case No. [12-cv-03928-MEJ](#)

**PETITION FOR WITHDRAWAL OF
FUNDS FROM BLOCKED ACCOUNT**

On behalf of the minor Plaintiff in the above-captioned action, I, the guardian ad litem for the minor Plaintiff, petition this Court for an order permitting the withdrawal of funds from the blocked account belonging to the minor Plaintiff identified below. Petitioner brings this petition as both the parent and guardian ad litem. This document is a Court-provided form that is intended to be equivalent to California Judicial Council Form MC-357 and compliant with California Rules of Court 3.1384 and 7.954.

The account in question is on deposit at Bank of America, Novato, located at 1600 Grant Avenue, Novato, CA, 94945 and is owned as follows:

A.C.: account number [REDACTED] 5996

(continued . . .)

Previous withdrawals from this account are as follows:

The amount of funds to be disbursed under this petition is as follows:

The payees to whom the funds may be distributed are:

The intended recipient of the funds, the request, the amount, and the asserted connection to current academic, health, and counseling needs are set forth in the table on the following page. **I understand that any request for expenditures must be specifically itemized and must have a direct connection between the proposed expense and a current academic, health, or counseling need, or another compelling need for the benefit of the child.**

(Type or use blue or black ink; use additional copies of this page if needed.)

I understand that any request to withdraw funds from the minor child's account must be specifically itemized and connected to a legitimate, current academic, health, or counseling need of that child, or another compelling need for the child's benefit. I will file documentation with the Court for the items and services purchased with authorized funds within 45 days of those expenditures.

Date: _____

Signature of Guardian ad Litem

[PROPOSED] ORDER

For good cause appearing, the Petition is **GRANTED/DENIED/GRANTED IN PART AND DENIED IN PART**, as set forth in the table above. Funds shall be disbursed from the blocked accounts as follows:

IT IS SO ORDERED.

Dated: _____

MARIA-ELENA JAMES
United States Magistrate Judge